MARINE DEPARTMENT.

NOTES

ON THE

BILL TO AMEND THE

KARA'CHI PORT TRUST ACT,

1886.

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on 31 October, 2019

BILL TO AMEND THE KARACHI PORT TRUST ACT, 1886.

I.

SECTIONS 1 @ 5.—*Reconstitution of the Board.*

1. The Board under the existing law consists of nine members, *viz.*:—

4 Trustees (including Chairman and Vice-Chairman) appointed by Government.

2 Trustees elected by the Chamber of Commerce, Karáchi.

2 Trustees elected by the Municipal Commissioners, Karáchi.

1 Trustee nominated by the Directors of the North-Western Railway.

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2. By the amendments proposed, the right of electing two members as Port Trustees is withdrawn from the Karáchi Municipality, one member being absorbed as an additional Government member and the other given to the Karáchi Chamber of Commerce.

The reasons which led Government to make this change, briefly stated, are as follows.

3. In 1891, the Karáchi Port Trustees proposed, among other amendments, that the Act should be altered so as to take away from the Karáchi Municipality the power of nominating two members to the Trust. In support of this proposal the Port Trustees urged that "in Bombay, where the Municipality stands the first in India, there is no provision in the Act for the election of Trustees by that body, and the Board are strongly of opinion that it will be in the best interests of the Karáchi Port Trust that the Trustees at present elected by the Municipality should be appointed by Government. Past experience has shown that the Municipality are prone to elect as Trustees gentlemen altogether unconnected with commerce." The Commissioner in Sind (who was in favour of the suggested change) invited a reference to the Proceedings of the Bombay Legislative Council, 1885-86, in connection with the Karáchi Port Trust Bill (now the Karáchi Port Trust Act, 1886), and remarked as follows:—

"I must say I agree with the Honourable Forbes Adam and think that his objection to giving the Municipality the

power has been to some extent justified. The Municipality of Karáchi has not been always very happy in its choice of members, and if only the efficiency of the Port Trust is to be looked to, I consider (more especially as I hope that the full fee of Rs. 30 will be sanctioned* by Government, which would be a temptation to job the appointments) that it would be better to allow the Commissioner or Government to select two members out of the Municipality. The Port Trust needs to be a working and thoroughly efficient body. But the concession having been made by the Legislature, it is for Your Excellency's Government to say whether the law should be assimilated to that in Bombay, where the Municipality has no power of selecting Trustees."

4. Government at first decided to leave matters as they were, as the Karáchi Port Trustees had also suggested an amendment of the Act for increasing the strength of the Board which it was considered the business of the Port did not justify; but it having been brought to notice that owing to the present constitution of the Board a contingency might arise which might prove prejudicial to the interests of Government, His Excellency the Governor suggested in Council that there were two courses open to guard against such a contingency, *viz.*:—

(1) to withdraw from the Karáchi Municipality its right to return two members, absorbing one as an additional Government member and giving the other to the Karáchi Chamber of Commerce, or

(2) to add one more Government member to the present number.

The former course, which was considered the more convenient of the two, was adopted, and the necessary alterations were accordingly ordered to be made in the Act. A copy of the minutes of the Honourable Board on the subject is attached.

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* *Note.*—The proposal to increase the fees was sanctioned by Government with effect from the 1st April 1892, *vide* G. R. No. 28, dated 12th February 1892.

Minute by His Excellency the Governor, dated 9th March 1892.

On 27th January 1892 I said I wished to call my Honourable Colleagues attention to the present composition of the Board. The point I wished to call attention to is noted on by Mr. Edgerley in the accompanying memo. If it is thought that there is a serious risk of this suggested complication occurring, there are apparently two courses open—

(1) to withdraw from the Municipality its right to return two members, which I understand no other Municipality has, absorbing one as an additional Government member and giving the other to the Chamber of Commerce, or

(2) adding one more Government member to the present number.

The former of these has the merit of making the composition of the Board more like that of Bombay. As the Honourable Sir R. West said in his first minute* 'Government could and would probably' nominate some one representative of the Corporation, but would not be compelled to do so.

The former course is capable of explanation, the latter is not easily so.

(Initialled) H.

9th March 1892.

Note by Mr. Edgerley referred to in the foregoing Minute.

The constitution of the Trust is, I think, open to two criticisms, both of which arise from the facts that the whole property of the Trust is a gift from the Government of Bombay, and its powers of raising further revenue delegated by this Government and its debts in the last resort guaranteed by the Bombay Government.

I. The Bombay Government is in an absolute minority on the Board. The constitution at present is—

2 members elected by the Karáchi Chamber of Commerce.

2 members elected by the Karáchi Municipality.

1 member nominated by the Director, N.-W. R. (Government of India).

4 members nominated by the Bombay Government.

The Bombay Government has thus only four votes as against five independent votes. The Government nominations are to some extent ear-marked in a manner which reduces their voting power. They are usually—

1. The Chairman.
2. The Vice-Chairman.
3. A military officer.
4. An outside nomination.

The Chairman is the Collector of Karáchi and is generally absent from Karáchi from November to April, during which period the Vice-Chairman of course takes the Chair. When he does so he cannot vote in the first instance, and the Chairman being ex-hypothui absent, the Government vote is reduced to two.

II. Under the Act two members of the Trust "shall be natives of India residing in Karáchi"—Section 5. These Native members are hitherto supplied by either the Municipality or the Chamber of Commerce, but it is no violent hypothesis that these bodies may return European members. The Chamber of

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* This minute was written in connection with the amendments suggested by the Karáchi Port Trustees to the Karáchi Port Trust Act. The Honourable Sir R. West observed (with reference to the appointment of a full-time Chairman) :—

"Were provision made for a Managing Chairman, I should think it desirable to assimilate the mode of selection of Trustees at Karáchi to that at Bombay. Government could and would ordinarily appoint the Chairman or some other member of the Municipality as a Trustee, but would not be compelled to do so."

Commerce usually do, and the present President of the Corporation is an European. What would be the result? Government would be bound to give two of their nominations to Natives, thereby excluding the Military member. If the Chairman were (under such circumstances) on tour and the Vice-Chairman presiding, it is not difficult to foresee a contingency in which the two Natives might be in opposition to a Government proposal and in which that proposal would never have a fair chance.

If the constitution were amended by raising the Government nominations to five, in ordinary cases Government would have five votes against five votes and a casting vote in the Chair, and the more violent hypothesis put under my head II would be impossible.

(Initialled) S. W. E.

8th March 1892.

Minute by the Honourable Sir R. West, dated 9th March 1892.

The Chairman has a vote on all questions and a second or casting vote in cases of equality. Still however the Government nominees are but four and may be out-voted by the other five. This could be prevented by making the Board consist of a President or Chairman *and* nine members, and as the case suggested is not an impossible one, I think it desirable that the composition should be altered to this extent.

The presence of two Native members might be secured without embarrassing Government by requiring that the elections by the Chamber of Commerce and by the Municipality shall be alternately of a Native and European or preferably such that one of the two members at least shall be a resident native of India.

(Initialled) R. W.

9th March 1892.

Minute by the Honourable Sir C. Pritchard, dated 11th March 1892.

It is now evident that a change in the constitution of the Trust is necessary, and I think the first of the alternative courses suggested by His Excellency the Governor offers the best solution. The constitution of the Karáchi Trust will then be assimilated to that of other Port Trusts in India. The Chamber of Commerce, Karáchi, is anxious that the power of appointment should be taken from the Municipality on the ground that experience has shown that the Municipality is prone to elect as Trustees gentlemen altogether unconnected with commerce. The Commissioner in Sind supports that view on the ground that the Municipality's selections have not been happy. As a matter of fact the Municipality's nominees have usually been either vakils, or newspaper editors, or contractors. I don't think it ever as yet nominated a merchant or trader. There is a small personal difficulty that I should mention. The Honourable Mr. Udharam, the member for Sind, was, and is still I think, one of members of the Port Trust elected by the Municipality.

(Initialled) C. B. P.

11th March 1892.

Minute by His Excellency the Governor, dated 12th March 1892.

I think the course most easily explained is the better one and agree with the Honourable Sir C. Pritchard. Steps may be taken to insert the necessary amendment.

(Initialled) H.

12th March 1892.

II.

SECTION 6.—*Saving of right of Her Majesty to the bed of the sea.*

This provides for an amendment to the Act corresponding to Section 5 of the Bill to amend the Bombay Port Trust Act.

III.

SECTION 7.—*Contribution by the Port Trustees towards the cost of constructing and maintaining light-houses beyond three miles from the limits of the Port.*

In connection with the proposed construction of a light-house on Cape Monze—a headland 17 miles westward of Manora—the Port Trustees intimated that they would be willing to accept any reasonable charge they would be justified by the Karáchi Port Trust Act in incurring for the purpose, but a reference to the Remembrancer of Legal Affairs having elicited that the Port Trustees had no power under the Karáchi Port Trust Act to construct a light-house at Cape Monze as clause 3 of Section 29 of the Act authorized the construction of light-houses necessary for the safe navigation of the approaches to the Port within a distance of three miles from the limits of the Port, whereas Cape Monze was about 17 miles distant from the Port, the Port Trustees, Karáchi, are desirous of being legally empowered to aid in lighting the coast approaches to the Port. An addition to Section 29 (3) of the Act has accordingly been introduced by Section 7 of the Bill which enables the Board with the sanction of Government to contribute towards the cost of constructing and maintaining light-houses beyond three miles from the Port. Cape Monze, it may be stated, is in British territory, being situated at the south-eastern extremity of the estuary of the Hab River, which separates Sind from Beluchistan.

IV.

SECTION 8.—*Grant of authority to a duly appointed officer to act on behalf of the Board in the cases of emergency referred to in Section 35 of the Act.*

The Karáchi Port Trustees, in suggesting this amendment, pointed out the desirability of empowering an officer appointed by them to issue the necessary notice, as in case of emergency it would be impossible to obtain promptly the orders of the Board. For example, in the event of a vessel approaching the jetty or wharf and insisting on occupying a berth when it might be inexpedient for such vessel to come alongside, such vessel would be alongside long before the orders of the Board could be obtained, and then could only be removed under the proviso to Section 35 of the Act. With regard to the substitution of 12 hours for 36 hours in the proviso just referred to, the Port Trustees, Karáchi, remarked:—

> "Twelve hours after receipt of notice would be ample time to allow of the removal of a vessel. The time fixed by the section at present, viz., 36 hours, is very inconvenient as it often happens that other vessels lying outside waiting for a berth are delayed for 36 hours, which is at times a serious matter."

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V.

SECTION 9.—*Power to the Commissioner in Sind to sanction remission of tolls, charges, &c., levied under Section 43 of the Act.*

The reason assigned by the Port Trustees, Karáchi; for this amendment is that circumstances may arise when it would be advantageous to the Trust to make a special reduction in the rates leviable by the Board, and if the Commissioner in Sind were empowered to sanction such reduction, much time would be saved, as at present, by the time Government sanction could be obtained, the opportunity might be lost.